

August 2016

Summary of IDEM Rulemakings

Title 326 Air Pollution Control Division

Rulemaking Action: Startup, Shutdown, and Malfunction (SSM) Emissions- [LSA Document #15-326](#)

Purpose: **Notice of Public Hearing/Proposed Rule**

Amends [326 IAC 1-6-1](#), [326 IAC 1-6-2](#), [326 IAC 1-6-4](#), [326 IAC 1-6-5](#), [326 IAC 1-6-6](#), and 326 IAC 2-9-1 concerning startup, shutdown, and malfunction (SSM) emissions.

Background: The United States Environmental Protection Agency (U.S. EPA) published findings in the Federal Register (FR) on June 12, 2015 (80 FR 33839) concerning inadequacies to startup, shutdown, and malfunction (SSM) provisions in state rules. This action, effective on May 22, 2015, directs thirty-six (36) states, including Indiana, to correct specific provisions in State Implementation Plans (SIPs) concerning the treatment of excess emissions that occur at certain industrial facilities during periods of SSM to be consistent with the Clean Air Act (CAA) and with U.S. EPA's updated SSM policy. Section 302(k) of the CAA requires SIPs to contain emission limitations that "limit the quantity, rate, or concentration of emissions of air pollutants on a continuous basis." However, the conditions listed in 326 IAC 1-6-4(a) would allow an exemption for noncompliance with emission limitations during certain malfunction events. Owners and operators of facilities that are required to obtain a permit under [326 IAC 2-5.1](#) or [326 IAC 2-6.1](#), generally those sources requiring a construction permit after December 25, 1998, except for exemptions as listed in the rule, will be affected by this rulemaking. States are required to submit a revision of the inadequate SSM provisions for approval into the SIP by November 22, 2016. IDEM is proposing to amend state rules to address SSM deficiencies.

History:	First Notice of Comment Period:	September 30, 2015 – October 30, 2015
	Second Notice of Comment Period:	March 30, 2016 – April 29, 2016
	Notice of First Hearing:	March 30, 2016
	Date of First Hearing/Preliminary Adoption:	August 10, 2016
	Proposed Rule	August 31, 2016
	Notice of Second Hearing/Final Adoption:	August 31, 2016

Inquiries: Additional information regarding this rulemaking action can be obtained from Jack Harmon, Rules Development Branch, Office of Legal Counsel, (317) 234-9535, (800) 451-6027 (toll-free), or JAHarmon@idem.in.gov.

Next Step: **Public Hearing/Final Adoption**

Public Hearing/ Final Adoption tentatively scheduled for November 9, 2016 at 1:30 p.m., at the Indiana Government Center South, 302 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Rulemaking Action: Outdoor Hydronic Heaters Revisions - [LSA Document #16-332](#)

Purpose: **First notice of Comment Period**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to [326 IAC 4-3](#) concerning air emissions from outdoor hydronic heaters. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

Background: Indiana's current outdoor hydronic heater rule, at [326 IAC 4-3](#), includes operational requirements to prohibit the burning of materials other than wood in the units, stack height requirements, and a use limit in the summer if located close to an occupied building that is not located on the same property as the unit. The rule also requires new units to meet a particulate emission limit of 0.32 pounds per million British thermal units (lbs/mmBtu) in Phase 2 of the requirements. The U.S. EPA published a rule concerning the addition of a new subpart to regulate the Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces ([40 CFR 60, Subpart QQQQ](#)) in the Federal Register on March 16, 2015 (80 FR 13672). This action was effective on May 15, 2015, and regulates particulate matter in a two-step compliance approach, including test methods and a certification process. Upon the effective date of the federal rule, all new outdoor hydronic heaters were required to meet the New Source Performance Standards (NSPS), and the two-step compliance approach allows unit operators to transition from step 1 emission limits on the effective date of the rule, to step 2 emission limits five years later. In step 1, a particulate matter emission limit of 0.32 lb/mmBtu heat output applies to each hydronic heater manufactured on or after May 15, 2015, or sold at retail after December 31, 2015. In step 2, a particulate matter emission limit of 0.10 lb/mmBtu heat output for crib wood applies to each hydronic heater manufactured or sold at retail on or after May 15, 2020. The NSPS at [40 CFR 60, Subpart QQQQ](#), allows manufacturers lead time to develop, test, field evaluate, and certify current technologies across their consumer product lines in order to both meet step 2 emission limits, and allow retailers to sell existing inventory. The NSPS relevant to outdoor hydronic heaters is included in a concurrent rulemaking and will be incorporated by reference into Indiana's rules at [326 IAC 12](#) with other federal NSPS that are incorporated by reference. IDEM is proposing to amend [326 IAC 4-3](#) to remove the requirement for new installations to meet Phase 2 particulate emission limits for outdoor hydronic heaters and label according to U.S. EPA's previous voluntary program, as new installations are now regulated nationwide under the federal rule. The primary purpose of this rulemaking is to update [326 IAC 4-3](#) so there are no conflicts with the federal NSPS. This rule will also amend additional language as necessary to address the changes in implementation. These amendments do not make any substantive changes or impose any new regulations beyond those already federally required or currently enforced in [326 IAC 4-3](#). While the NSPS applies to more than outdoor hydronic heaters, such as forced air furnaces, the state rule at [326 IAC 4-3](#) will remain limited to outdoor hydronic heaters. Additionally, there are certain requirements in [326 IAC 4-3](#) that were implemented by IDEM in the 2011 rulemaking that are not part of the U.S. EPA final rule. These requirements concern operational uses of the unit, such as stack height requirements, the summertime operating ban, opacity limits, and the notice to buyers. This rulemaking proposes to retain these requirements.

History: First Notice of Comment Period: August 17, 2016 – September 16, 2016

Inquiries: All comments must be postmarked, faxed, or time stamped not later than September 16, 2016. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this rulemaking action can be obtained from and comments submitted to Keelyn Walsh, Rules Development Branch, Office of Legal Counsel, (317) 232-8229, (800) 451-6027 (toll-free), or kwalsh@idem.in.gov.

Next Step: **Second Comment Period**

Title 327 Water Pollution Control Division

Rulemaking Action: Revised Total Coliform Rule - [LSA Document #14-59](#)

Purpose: **Notice of Public Hearing/Proposed Rule**

Amends [327 IAC 8-2](#), [327 IAC 8-2.1](#), [327 IAC 8-2.3](#), [327 IAC 8-2.4](#), and [327 IAC 8-2.5](#) to add the federal requirements of the Revised Total Coliform Rule (TCR) found at [40 CFR 141](#), as amended by the Federal Register (FR) on February 13, 2013 at 78 FR 10346, and February 26, 2014 at 79 FR 10668.

Background: The U.S. EPA published final revisions to the 1989 TCR in the Federal Register (FR) on February 13, 2013 (78 FR 10346), and technical corrections to the final rule revisions were published on February 26, 2014 (79 FR 10668). The Revised Total Coliform Rule (RTCR) offers a meaningful opportunity for greater public health protection beyond the 1989 TCR. Under the RTCR, there is no longer a monthly maximum contaminant level (MCL) violation for multiple total coliform detections. Instead, the revisions require public water systems (PWSs) that have an indication of coliform contamination in the distribution system to assess the problem and take corrective action that may reduce cases of illnesses and deaths due to potential fecal contamination and waterborne pathogen exposure. The final rule revision also updates provisions in other rules that reference analytical methods and other requirements in the 1989 TCR. These include minor revisions being made in the Groundwater Rule (GWR) and the Stage 2 rule to correct items U.S. EPA believes need corrected to make IDEM's rules as stringent as the federal rules. The revisions are in accordance with the 1996 Safe Drinking Water Act (SDWA) Amendments that require U.S. EPA to review and revise, as appropriate, each national primary drinking water regulation not less often than every six years. These revisions also conform to the SDWA provision that requires any revision to "maintain, or provide for greater protection of the health of persons". As with the 1989 TCR, the RTCR applies to all PWSs.

History:	First Notice of Comment Period:	March 4, 2014 - April 4, 2016
	Second Notice of Comment Period:	May 11, 2016 – June 10, 2016
	Notice of Public Hearing:	May 11, 2016
	Date of First Hearing/Preliminary Adoption:	August 10, 2016
	Proposed Rule	August 31, 2016
	Notice of Second Hearing/Final Adoption:	August 31, 2016

Inquiries: Additional information regarding this rulemaking action can be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232- 8635, (800) 451-6027 (toll-free), or mstevens@idem.in.gov.

Next Step: **Public Hearing/Final Adoption**

Public Hearing/Final Adoption tentatively scheduled for November 9, 2016 at 1:30 p.m., at the Indiana Government Center South, 302 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Rulemaking Action: Interference of a Publicly Owned Treatment Works - [LSA Document #16-4](#)

Purpose: **Notice of Public Hearing/Proposed Rule**

Amends [327 IAC 5-17-11](#) concerning the definition of "interference" as it relates to pretreatment discharge to a publicly owned treatment works (POTW).

Background: [IC 13-14-8-5](#) allows any person meeting the statutory requirements to present a written proposal to the Environmental Rules Board (board) requesting adoption, amendment, or repeal of a rule. A written proposal for the amendment of [327 IAC 5-17-11](#), the definition of "interference" as it regards pretreatment discharge of wastewater into a POTW, was presented to the board at its meeting in January 2015. The proposal and its supporters alleged that the definition at [327 IAC 5-17-11](#) is more stringent than the federal definition at [40 CFR 403.3\(k\)](#) and that the state's definition creates vagueness and subjectivity in determining whether interference has occurred at the POTW. The board held a hearing on the proposal and considered it at several board meetings after the initial presentation. The board's final action at its October 2015 meeting was to direct IDEM to conduct rulemaking to revise the definition at [327 IAC 5-17-11](#) to be consistent with the federal definition.

History:

First Notice of Comment Period:	January 13, 2016 - February 12, 2016
Second Notice of Comment Period:	April 13, 2016 – May 13, 2016
Notice of Public Hearing:	April 13, 2016
Date of First Hearing/Preliminary Adoption:	August 10, 2016
Proposed Rule	August 31, 2016
Notice of Second Hearing/Final Adoption:	August 31, 2016

Inquiries: Additional information regarding this rulemaking action can be obtained from MaryAnn Stevens, Rules Development Branch, Office of Legal Counsel, (317) 232- 8635, (800) 451-6027 (toll-free), or mstevens@idem.in.gov.

Next Step: **Public Hearing/Final Adoption**

Public Hearing/ Final Adoption tentatively scheduled for November 9, 2016 at 1:30 p.m., at the Indiana Government Center South, 302 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Title 329 Solid Waste Management Division

Rulemaking Action: Solid Waste Facility Operator Certification Program - [LSA Document #14-111\(F\)](#)

Purpose: **Final Adopted**

Adds [329 IAC 12-2-8.5](#), [329 IAC 12-2-8.7](#), [329 IAC 12-2-11.2](#), [329 IAC 12-2-51.5](#), [329 IAC 12-7-6.5](#), [329 IAC 12-8-2.1](#), [329 IAC 12-8-3.1](#), [329 IAC 12-8-4.1](#), [329 IAC 12-9-2.1](#), [329 IAC 12-9-3.1](#), and [329 IAC 12-9-4.1](#) and amends [329 IAC 10-8.2-4](#), [329 IAC 12-2-2.2](#), [329 IAC 12-2-2.4](#), [329 IAC 12-2-5.1](#), [329 IAC 12-2-5.2](#), [329 IAC 12-2-6](#), [329 IAC 12-2-16](#), [329 IAC 12-2-31.5](#), [329 IAC 12-2-44](#), [329 IAC 12-2-46](#), [329 IAC 12-2-54](#), [329 IAC 12-3-1](#), [329 IAC 12-3-2](#), [329 IAC 12-7-1](#), [329 IAC 12-7-2](#), [329 IAC 12-7-3](#), [329 IAC 12-7-5](#), [329 IAC 12-7-6](#), [329 IAC 12-7-7](#), [329 IAC 12-8-1](#), [329 IAC 12-8-8](#), [329 IAC 12-8-9](#), [329 IAC 12-8-10](#), [329 IAC 12-9-1](#), [329 IAC 12-9-5](#), [329 IAC 12-9-6](#), and [329 IAC 12-9-7](#), concerning solid waste facility operator certification. Repeals [329 IAC 12-2-2](#), [329 IAC 12-2-2.1](#), [329 IAC 12-2-](#)

[2.3, 329 IAC 12-2-4, 329 IAC 12-2-5, 329 IAC 12-2-11.1, 329 IAC 12-2-13, 329 IAC 12-2-15, 329 IAC 12-2-21; 329 IAC 12-2-24, 329 IAC 12-2-27, 329 IAC 12-2-27.2, 329 IAC 12-2-30, 329 IAC 12-2-33, 329 IAC 12-2-35; 329 IAC 12-2-36, 329 IAC 12-2-38, 329 IAC 12-2-39, 329 IAC 12-2-42, 329 IAC 12-2-45, 329 IAC 12-2-49; 329 IAC 12-2-50; 329 IAC 12-2-52; 329 IAC 12-7-4, 329 IAC 12-8-2, 329 IAC 12-8-3, 329 IAC 12-8-4, 329 IAC 12-8-5, 329 IAC 12-8-6, 329 IAC 12-8-7, 329 IAC 12-9-2, 329 IAC 12-9-3, and 329 IAC 12-9-4.](#)

Background: The solid waste facility operator certification program is required under [IC 13-15-10](#). State law requires the board to adopt rules to establish standards for the training, examination, certification, and renewal certification of operators of solid waste land disposal facilities. In accordance with [IC 13-15-10-2](#), solid waste facilities that are required to have a certified operator cannot obtain or renew a permit to operate unless the facility is operated by an individual certified under this program. Through the program, IDEM is assured that solid waste facilities have a certified and trained operator on-site, and operators have the opportunity to stay current with industry conditions. Since the rules pertaining to the program were last modified, IDEM has received comments about the efficacy of the program and suggestions to improve the program. In response to external comments and internal considerations, IDEM has made changes to the solid waste facility operation certification program rules in order to:

- offer more flexibility for the certification and recertification course content;
- provide additional training options for completing required courses;
- extend the period of time allowed between operator re-certifications;
- clarify sections throughout the rule; and
- update the rule to adapt to changing conditions in the industry.

These changes will provide more flexibility for persons and entities that are required to comply with certified solid waste facility operator rules, and are intended to decrease the burden on regulated entities. If the time frame for recertification is extended, the cost to comply with the training requirements will go down, therefore reducing costs for regulated entities. Persons and entities that will be affected by this rulemaking include current and future certified solid waste facility operators, solid waste management facilities, and institutions that provide the accredited tests and training courses for operator certification.

History:	First Notice of Comment Period:	April 16, 2014 - May 16, 2014
	Second Notice of Comment Period:	July 22, 2015 - August 21, 2015
	Notice of First Hearing:	July 22, 2015
	Change in Notice of Public Hearing:	September 9, 2015
	Change in Notice of Public Hearing:	January 6, 2016
	Date of First Hearing:	February 10, 2016
	Proposed Rule:	March 16, 2016
	Notice of Second Hearing:	March 16, 2016
	Third Notice Comment Period	March 16, 2016 - April 6, 2016
	Date of Second Hearing/Final adopted:	May 11, 2016
	Final Rule Published	August 31, 2016
	Effective	January 1, 2017

Inquiries: Additional information regarding this rulemaking action can be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345, (800) 451-6027 (toll-free), or dwatts1@idem.in.gov.

Next Step: **Rule will become effective on January 1, 2017.**

Emergency Rules

Title 327 Water Pollution Control Division

Rulemaking Action: Emergency Revised Total Coliform Rule - [LSA Document #16-333\(E\)](#)

Purpose: **Adoption of Emergency Rule**

Temporarily amends [327 IAC 8-2](#), [327 IAC 8-2.1](#), [327 IAC 8-2.3](#), and [327 IAC 8-2.5](#) to add the federal requirements of the Revised Total Coliform Rule found at [40 CFR 141](#), as amended by the Federal Register (FR) on February 13, 2013 at 78 FR 10346, and February 26, 2014 at 79 FR 10668. Statutory authority: IC 13-14-8-1. Effective August 11, 2016.

Background: SECTION 1. A reference to a provision of the Code of Federal Regulations (CFR) means the July 1, 2015, edition.

SECTION 2. (a) The following federal regulations are incorporated by reference:

- (1) 40 CFR 141, Subpart Y*.
- (2) 40 CFR 141.2*.
- (3) 40 CFR 141.21*.
- (4) 40 CFR 141.52*.
- (5) 40 CFR 141.63*.
- (6) 40 CFR 141.74(c)(3)(i)*.
- (7) 40 CFR 141.132*.
- (8) 40 CFR 141.153*.
- (9) 40 CFR 141, Subpart O, Appendix A*.
- (10) 40 CFR 141.202*.
- (11) 40 CFR 141.203*.
- (12) 40 CFR 141.204*.
- (13) 40 CFR 141, Subpart Q, Appendix A*.
- (14) 40 CFR 141, Subpart Q, Appendix B*.
- (15) 40 CFR 141.402*.
- (16) 40 CFR 141.405*.

- (b) If a requirement incorporated by reference in subsection (a) conflicts with or is inconsistent with a requirement in 327 IAC 8-2, 327 IAC 8-2.1, 327 IAC 8-2.3, or 327 IAC 8-2.5, then the requirement incorporated by reference in subsection (a) applies.
- (c) When used in 40 CFR, as incorporated by reference in this document, "primacy agency" means the department of environmental management where the department exercises primary enforcement responsibility as granted by the United States Environmental Protection Agency. *These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

SECTION 3. A variance request from the requirements of this document shall be made in accordance with [IC 13-14-8-8](#).

Title 329 Solid Waste Management Division

Rulemaking Action: Coal Combustion Residuals Emergency Rule - [LSA Document #16-334\(E\)](#)

Purpose: **Notice of Emergency Rule**

Temporarily amends [329 IAC 10-3-1](#), [329 IAC 10-9-1](#) to incorporate by reference the federal requirements for the operation and closure of a coal combustion residuals impoundment. Effective August 11, 2016.

- Background:**
- SECTION 1. (a) This SECTION supersedes [329 IAC 10-3-1](#)(8).
(b) Except for coal combustion residuals impoundments subject to 40 CFR 257, Subpart D, disposal of coal ash transported by water into an ash pond that has received a water pollution control facility construction permit under [327 IAC 3](#).
- SECTION 2. (a) This SECTION supersedes [329 IAC 10-3-1](#)(9).
(b) Except for coal combustion residuals impoundments subject to 40 CFR 257, Subpart D, the operation of surface impoundments; however, the final disposal of solid waste in surface impoundments at the end of their operation is subject to approval by the commissioner, except as excluded under SECTION 1(b) of this document and [329 IAC 10-3-1](#)(10). The commissioner's approval is based on management practices that are protective of human health and the environment.
- SECTION 3. (a) This SECTION supplements [329 IAC 10-9-1](#).
(b) The owner and operator of a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, shall comply with the requirements for surface impoundments in accordance with 40 CFR 257.50* through 40 CFR 257.106*, except the phrase "not to exceed a height of 6 inches above the slope of the dike" is deleted from the following sections:
(1) 40 CFR 257.73(a)(4).
(2) 40 CFR 257.73(d)(1)(iv).
(3) 40 CFR 257.74(a)(4).
(4) 40 CFR 257.74(d)(1)(iv).
(c) For a coal combustion residuals impoundment subject to 40 CFR 257, Subpart D, final disposal of solid waste in the impoundment at the end of the operation of the impoundment is subject to approval by the commissioner, based on the requirements for coal combustion residuals impoundments in 40 CFR 257.50* through 40 CFR 257.106* and on other management practices that are protective of human health and the environment. *These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20402, viewed at www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, Thirteenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.
- SECTION 4. A variance request from the requirements of this document shall be made in accordance with [IC 13-14-8-8](#).
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Adoptions – Environmental Rules Board – August 10, 2016

Title 326 Air Pollution Control Division

Rulemaking Action: Emissions Reporting for Lawrenceburg Township, Dearborn County - [LSA Document #16-162](#)

Purpose: **Adoption**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for an amendment to [326 IAC 2-6-1](#) to include Lawrenceburg Township, Dearborn County on the list of marginally classified nonattainment areas required to submit emissions reporting information.

Background: Under Section 107(d)(1)(B) of the Clean Air Act (CAA), Lawrenceburg Township in Dearborn County was designated as a marginally classified nonattainment area for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) by the United States Environmental Protection Agency (U.S. EPA) on May 21, 2012 (77 FR 30118). Sections 110 and 182 of the CAA address the requirements related to nonattainment areas. Under Section 182(a)(3)(B) of the CAA, and as a prerequisite for redesignation of a nonattainment area to attainment, each state with an ozone nonattainment area is required to revise its State Implementation Plan (SIP) to include a requirement that the owner or operator of each stationary source of nitrogen oxides (NOx) or volatile organic compounds (VOCs) provide the state with a statement showing actual emissions of NOx or VOCs from that source. In September 2015, IDEM prepared a draft document, "Request for Redesignation and Maintenance Plan for Ozone Attainment in the Indiana Portion of the Cincinnati-Hamilton, Ohio, Kentucky, Indiana (OH-KY-IN) 2008 8-Hour Ozone Nonattainment Area", for submittal to U.S. EPA to redesignate the area to attainment for ozone. The Cincinnati-Hamilton, OH-KY-IN, area has recorded three (3) years of complete, quality-assured ambient air quality monitoring data for the years 2013 through 2015, demonstrating attainment of the 8-hour ozone standard. There is a significant economic benefit of redesignation to attainment for Lawrenceburg Township, Dearborn County, as the current designation of nonattainment discourages industrial growth in the area. This rulemaking is a required component of a complete and approvable redesignation request. Once the completed redesignation request is approved by U.S. EPA and published in the Federal Register, Lawrenceburg Township in Dearborn County can be redesignated to attainment through a future state rulemaking, allowing new major sources and major modifications at existing sources to be permitted under the Prevention of Significant Deterioration (PSD) rules in 326 IAC 2-2, rather than the more restrictive Emission Offset rules in 326 IAC 2-3. IDEM is proposing to amend the Emission Reporting rule at 326 IAC 2-6 to apply the reporting thresholds for nonattainment areas to the 8-hour ozone nonattainment area of Lawrenceburg Township in Dearborn County. Sources in areas listed in 326 IAC 2-6-1(a) are required to report emissions of NOx and VOCs if they emit greater than twenty-five (25) tons per year of either pollutant. When this rule is complete, it will be submitted to U.S. EPA with the redesignation request for approval into the Indiana SIP to redesignate Lawrenceburg Township, Dearborn County to attainment for the 2008 8-hour ozone standard.

History:	First Notice of Comment Period:	April 27, 2016 - May 27, 2016
	Notice of First Hearing:	April 27, 2016

Public Hearing/Adoption:

August 10, 2016

Inquiries: Additional information regarding this rulemaking action can be obtained from and comments submitted to Keelyn Walsh, Rules Development Branch, Office of Legal Counsel, (317) 232-8229, (800) 451-6027 (toll-free), or kw Walsh@idem.in.gov.

Next Step: **Effective (TBD)**

Rulemaking Action: Code of Federal Regulations (CFR) Update- [LSA Document #16-208](#)

Purpose: **Adoption**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for [326 IAC 1-1-3](#) updates to references to the Code of Federal Regulations (CFR) to bring it up to date with the July 1, 2015, edition.

Background: "References to the Code of Federal Regulations" at [326 IAC 1-1-3](#) indicates the yearly edition of the CFR that is applicable to federal regulations that have been incorporated by reference throughout 326 IAC, unless a previous edition is specified in a specific rule. By updating the reference to the CFR at [326 IAC 1-1-3](#), the Environmental Rules Board is incorporating by reference the latest version of the CFR, with the exception of those regulations most recently published in the Federal Register (FR). The latest version of the CFR contained in [326 IAC 1-1-3](#) is July 1, 2013. Since that date, several new federal regulations have been promulgated that are not reflected in the current version of 326 IAC. By updating the reference date to July 1, 2015, 326 IAC will be consistent with those regulations that the federal government promulgated between July 1, 2013, and June 30, 2015. The 2015 edition of the CFR is a codification of the final and effective regulations published in the FR as of June 30, 2015. IDEM incorporates citations by reference from Titles 29 and 40 of the CFR in 326 IAC. Title 29 of the CFR contains federal regulations for the asbestos program. Title 29 is referenced in [326 IAC 14](#) (Emission Standards for Hazardous Air Pollutants) and [326 IAC 18](#) (Asbestos Management). These regulations are either directly incorporated by reference into 326 IAC as state-enforceable rule provisions or as federal authority for the implementation and enforcement of state rule provisions. Title 40 of the CFR includes all federal environmental regulations promulgated by the United States Environmental Protection Agency (U.S. EPA). Title 40 is referenced throughout 326 IAC.

History:

First Notice of Comment Period:	May 25, 2016 - June 24, 2016
Notice of First Hearing:	May 25, 2016
Public Hearing/Adoption:	August 10, 2016

Inquiries: Additional information regarding this rulemaking action can be obtained from and comments submitted to Keelyn Walsh, Rules Development Branch, Office of Legal Counsel, (317) 232-8229, (800) 451-6027 (toll-free), or kw Walsh@idem.in.gov.

Next Step: **Effective (TBD)**

Rulemaking Action: Updates to Hazardous Waste Rules- [LSA Document #16-93](#)

Purpose: **Adopted**

IDEM initiated this rulemaking to amend [329 IAC 3.1](#)

Background: In accordance with 42 U.S.C. 6926, the United States Environmental Protection Agency (U.S. EPA) granted authorization to IDEM to administer and enforce a hazardous waste program in Indiana. To maintain authorization for this program, IDEM must comply with the requirements for state authorization in [40 CFR 271, Subpart A](#). Activities related to administering the hazardous waste program include permitting, compliance, monitoring, enforcement, and providing technical assistance. In accordance with the state authorization requirements, Indiana is required to revise its hazardous waste program by adopting recent amendments to federal hazardous waste regulations. Indiana's hazardous waste rules must be as stringent as those adopted by U.S. EPA, with the option of adopting more stringent state requirements, if appropriate, for a particular situation. The proposed rulemaking is incorporating by reference U.S. EPA final rules that amend hazardous waste requirements and does not include any amendments that will have a substantive effect on the scope or application of the federal rule. In addition, the rulemaking contains technical corrections and clarifications that will not have an effect on the existing rule. IDEM has developed rule language that amends [329 IAC 3.1](#) in order to adopt the July 1, 2015, version of the Code of Federal Regulations (CFR) for the incorporation by reference of [40 CFR 260](#) through [40 CFR 270](#) and [40 CFR 273](#), including amendments to the hazardous waste requirements in recently promulgated U.S. EPA final rules. This rulemaking will adopt the amendments from the following U.S. EPA final rules:

- On February 7, 2014, at 79 FR 7518, U.S. EPA published a final rule for modification of the hazardous waste manifest system that establishes requirements to authorize the use of electronic manifests for tracking hazardous waste.
- On June 26, 2014, at 79 FR 36220, U.S. EPA published a final rule for revisions to the export provisions of the cathode ray tube (CRT) final rule originally published on July 28, 2006, at 71 FR 42928.
- On January 13, 2015, at 80 FR 1694, U.S. EPA published a final rule with revisions to the definition of solid waste that encourage the reclamation of certain hazardous secondary materials rather than disposal or incineration of the materials while also sufficiently protecting human health and the environment.
- On April 8, 2015, at 80 FR 18777, U.S. EPA published a response to the vacatur of the comparable fuels exclusion and the gasification exclusion ordered by the United States Court of Appeals for the District of Columbia Circuit on June 27, 2014.

In addition to incorporating by reference the recent U.S. EPA final rules for hazardous waste, this rulemaking proposes technical amendments in [329 IAC 3.1](#) to correct errors for materials incorporated by reference, statutory citations, and contact information. Also, the proposed amendments at [329 IAC 3.1-1-10](#), [329 IAC 3.1-7-2](#), and [329 IAC 3.1-8-3](#) correct technical errors in existing rule requirements. IDEM is including these technical amendments to clarify existing rules without having an effect on the scope or application of the rules. IDEM continues to review and amend outdated or incorrect rule language throughout [329 IAC 3.1](#), when the opportunity is available.

History:	First Notice of Comment Period:	March 16, 2016 - April 15, 2016
	Notice of Public Hearing:	March 16, 2016
	Change in Notice of Public Hearing:	April 6, 2016
	Public Hearing/Adoption:	August 10, 2016

Inquiries: Additional information regarding this rulemaking action can be obtained from Dan Watts, Rules Development Branch, Office of Legal Counsel, (317) 234-5345, (800) 451-6027 (toll-free), or dwatts1@idem.in.gov.

Next Step: **Effective (TBD)**

Rulemaking Action: Coal Combustion Residuals - [LSA Document #16-217](#)

Purpose: **Adopted**

Amends [329 IAC 10-3-1](#) and [329 IAC 10-9-1](#) to incorporate by reference the federal requirements found at [40 CFR 257, Subpart D](#), for the operation and closure of a coal combustion residuals (CCR) impoundment.

Background: CCR are fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers. The United States Environmental Protection Agency (U.S. EPA) promulgated federal regulations found at [40 CFR 257, Subpart D](#), for the operation, record keeping, and closure of CCR impoundments. These regulations were published in the Federal Register on April 17, 2015 (80 FR 21302) and became effective on October 19, 2015. The regulations are self-implementing, but contain strict compliance deadlines. A CCR impoundment must meet operating criteria within six months of the effective date of the rule, or by April 19, 2016, or close within 18 months of the effective date of the rule, or by April 19, 2017. The operating criteria address the day-to-day operations of CCR impoundments and establish requirements to prevent impacts to public health and the environment. Compliance with the operating criteria must be documented in the facility's operating record, and the facility must provide the state with notifications regarding certain aspects of its compliance. Indiana rules are limited and only regulate CCR impoundments at final closure if waste is closed in place, under the solid waste rules found at [329 IAC 10](#). Because the federal regulations are self-implementing, there is no regulatory agency providing compliance and enforcement oversight. By incorporating these regulations by reference into Indiana law, IDEM will have the authority to ensure compliance and take enforcement action if necessary to ensure protection of human health and the environment. Additionally, IDEM was contacted by interested stakeholders who requested that IDEM explore the possibility of approving alternatives to the compliance deadlines associated with [40 CFR 257, Subpart D](#). Alternate compliance schedules are allowable in accordance with 40 CFR 256, if approved by U.S. EPA as part of a state's Solid Waste Management Plan (SWMP). In order for IDEM to obtain U.S. EPA's approval of such a change to Indiana's SWMP, the current state regulations found at [329 IAC 10](#) need to be changed. Indiana must be able to show that the state can enforce standards as stringent as the federal regulations. To establish enforcement capabilities, an emergency rule, LSA Document #16-88(E), was passed by the Environmental Rules Board (ERB) on February 10, 2016, and became effective on February 12, 2016. The emergency rule incorporated the federal regulations applicable to CCR impoundments found at [40 CFR 257.50](#) through [40 CFR 257.106](#) into Indiana's rules for Solid Waste Land Disposal Facilities. The emergency rule is temporary and is only effective for 90 days from the filing date with the Indiana Register. The ERB may readopt the emergency rule to maintain it until such time as this rulemaking is completed. This rule will amend [329 IAC 10](#) to incorporate the changes made by the emergency rule into [329 IAC 10](#).

History:	First Notice of Comment Period:	June 1, 2016 - July 1, 2016
	Notice of Public Hearing:	June 1, 2016
	Public Hearing/Adoption:	August 10, 2016
Inquiries:	Additional information regarding this rulemaking action can be obtained from Lauren Aguilar, Rules Development Branch, Office of Legal Counsel, (317) 234-8559, (800) 451-6027 (toll-free), or laguilar@idem.in.gov .	
Next Step:	Effective (TBD)	

Prepared by: Angela Taylor, Small Business Regulatory Coordinator